

**FACE SHEET**  
**FOR FILING ADMINISTRATIVE REGULATIONS**  
**WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**RECEIVED FOR FILING**

**SEP 24 1971**

Office of Administrative Procedure

**ENDORSED**

APPROVED FOR FILING  
 (Gov. Code 11380.1)

**SEP 24 1971**

Office of Administrative Procedure

Copy below is hereby certified to be a true and correct copy of regulations adopted, or amended, or an order of repeal by:

State Department of Social Welfare

(Agency)

Dated: September 24, 1971

By: [Signature]

Director

(Title)

**FILED**

In the office of the Secretary of State  
 of the State of California

**SEP 24 1971**

At 11:10 o'clock 9 M.

EDMUND G. BROWN, Jr. Secretary of State

By: [Signature]

Deputy Secretary of State

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After proceedings had in accordance with the provisions of the Administrative Procedure Act (Gov. Code, Title 2, Div. 3, Part I, Chapter 4.5) and pursuant to the authority vested by Sections 10552, 10553, 10554 and 10604 of the Welfare and Institutions Code, the Department of Social Welfare hereby repeals, amends, and adopts regulations referred to in Title 22, California Administrative Code, as hereinafter set forth.

These regulations do not contain any building standards.

#### FINDING OF EMERGENCY

The following regulations are emergency measures necessary for the immediate preservation of the public health, safety and general welfare within the meaning of the provisions of Section 11421(b) of the Government Code:

**Revise:**

Section 43-103  
 43-109  
 43-109.31  
 43-111.42  
 44-131.142

**New:**

43-109.5  
 43-109.51  
 43-109.6

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(Pursuant to Government Code Section 11380.1)

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2. Implementation of this legislation must be accomplished through regulations adopted by the State Department of Social Welfare.
3. The welfare reform program includes administrative reform and state legislation.
4. It is essential to the efficient administration of public social services that the administrative and legislative reforms be implemented by simultaneous regulation changes to minimize the disruption in the administration of such services by the county welfare departments.
5. In order to implement the Welfare Reform Act by October 1, 1971, it is necessary to adopt these regulations on an emergency basis.
6. The regulatory changes set forth above are adopted as emergency measures to become effective October 1, 1971, to comply with the requirements of Chapter 578 of the Statutes of 1971.

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43-103      EFFECT OF RELATIVE RESPONSIBILITY ON AID PAYMENTS (Continued)      43-103

OAS

Only the contributions actually received by the county on behalf of an applicant or recipient or paid directly to the applicant or recipient are considered in determining his eligibility or the amount of grant to which he is eligible. However, failure of the responsible relative to cooperate in providing the information necessary to determine his liability or failure of the relative to meet his liability as fixed by the county are bases for a report by the county to the district attorney or other civil legal officer for appropriate action.

43-109      RESPONSIBILITY OF ADULT CHILD

43-109

The maximum liability of an adult child shall be determined under the Relatives' Contribution Scale (see .31 below) which gives consideration to the child's net income and the number of his dependents. When the net monthly income of the adult child exceeds \$825, add \$5 to the appropriate subcolumn of Column C for each additional increment of \$25 in the adult child's net monthly income.

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43-109 RESPONSIBILITY OF ADULT CHILD (Continued)

43-109

OAS | .31 Relatives' Contribution Scale

**RELATIVES' CONTRIBUTION SCALE**

A		B	C					
If gross monthly income is:		Then net monthly income is:	Maximum required monthly contribution if number of persons dependent upon income is:					
			1	2	3	4	5	6 or more
\$ 0 - 467.99	468.00 - 501.33	\$ 0 - 350	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
		351 - 375	20	0	0	0	0	0
501.34 - 534.66	534.67 - 567.99	376 - 400	25	0	0	0	0	0
		401 - 425	30	20	0	0	0	0
568.00 - 601.33	601.34 - 634.66	426 - 450	35	25	0	0	0	0
		451 - 475	40	30	20	0	0	0
634.67 - 667.99	668.00 - 701.33	476 - 500	45	35	25	0	0	0
		501 - 525	50	40	30	20	0	0
701.34 - 734.66	734.67 - 767.99	526 - 550	55	45	35	25	0	0
		551 - 575	60	50	40	30	20	0
768.00 - 801.33	801.34 - 834.66	576 - 600	65	55	45	35	25	0
		601 - 625	70	60	50	40	30	20
834.67 - 867.99	868.00 - 901.33	626 - 650	75	65	55	45	35	25
		651 - 675	80	70	60	50	40	30
901.34 - 934.66	934.67 - 967.99	676 - 700	85	75	65	55	45	35
		701 - 725	90	80	70	60	50	40
968.00 - 1001.33	1001.34 - 1034.66	726 - 750	95	85	75	65	55	45
		751 - 775	100	90	80	70	60	50
1034.67 - 1067.99	1068.00 - 1101.33	776 - 800	105	95	85	75	65	55
		801 - 825	110	100	90	80	70	60

Columns B and C of the above scale constitute the Relatives'

Contribution Scale as it appears in the law.

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43-109 RESPONSIBILITY OF ADULT CHILD (Continued)

43-109

OAS |

Column A is included for convenience in converting gross income to net income when the income of the adult child includes only his salary or wages. Under the law, the differential between gross and net income for such child is a flat 25 percent and this is the differential between the gross income shown in Column A and the net income shown in Column B.

If the adult child's income includes income from property, self-employment, business, etc., his total net income must be determined under the appropriate provisions in Section 43-105.4. Net income so determined is then used in determining his maximum liability under Column C of the scale.

43-109 RESPONSIBILITY OF ADULT CHILD (Continued)

43-109

OAS |

.5 Remittance of Contributions

The responsible relative must remit to the county welfare department the amount prescribed in Section 43-109.31, less the value of any in-kind contributions described in Section 43-109.4.

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## 43-109 RESPONSIBILITY OF ADULT CHILD (Continued)

43-109

OAS

.51 Contributions in excess of the amount required in Section 43-109.4 may be remitted directly to the applicant or recipient, in which case the applicant or recipient must report such contributions to the county welfare department as income.

.6 Disposition of Contributions in Excess of Amount of Aid Granted

If, because more than one adult child contributes toward the support of a parent, the total monthly contribution exceeds the amount of aid paid in such month, the excess amount shall be credited toward the succeeding month's support obligation; provided, however, such excess shall not be credited to the extent that any such adult child has not fully met his support obligation in previous months.

43-111 PROCEDURE FOR DETERMINING NONLIABILITY OR LIABILITY OF  
AN ADULT

43-111

OAS

.42 Adult Child Fails to Meet His Liability as Fixed by the County

The county granting aid shall request the district attorney or other civil legal officer to proceed against such adult child as provided in W&IC Section 12100 and Section 1650 et seq. of the Code of Civil Procedure.

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44-131 TREATMENT OF INCOME - ADULT PROGRAMS (Continued)

44-131

AB  
APSB  
ATD  
OAS

## .142 Income of Ineligible Spouse (Continued)

c. Any balance, up to one-half of the total net income, shall be allocated to the recipient.

AB  
APSB

- (1) Applicable when AB or APSB recipient's spouse is the wife.

The amount of allocation from community income of the ineligible spouse is measured by the scale set forth in Section 43-109.31.

ATD

- (2) Applicable when ATD recipient is eligible for an attendant service allowance.

The amount of allocation from community income of the ineligible spouse in relation to total needs other than attendant service is determined in the same manner as for the recipient who is ineligible for an attendant service allowance. However, the amount of allocation from community income in relation to attendant services only is measured by the scale in Section 43-109.31. Any liability under this scale is deducted from the allowance for attendant care only.

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#### FINDING OF EMERGENCY

The following regulations are emergency measures necessary for the immediate preservation of the public health, safety and general welfare within the meaning of the provisions of Section 11421(b) of the Government Code:

Revise:

Section 43-113.6  
 44-133.5

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## 43-113 RESPONSIBILITY FOR SUPPORT (Continued)

43-113

AFDC .6 Stepfather

A stepfather is responsible for the support of:

- .61 His children from another union living outside the home; and
- .62 His children, natural and adopted, living in the home; and
- .63 His wife.

A stepfather is not legally responsible for the support of his wife's children by another man, unless he has adopted them. However, his wife's interest in the community property, including the earnings of her husband (see Section 44-101.5 for definition of earnings) shall be considered available for the support of his stepchild(ren). See Section 44-133.5.

If the stepfather and his legal dependents living in the home are needy but are ineligible or refuse to apply for public assistance or General Relief, a determination of possible misuse of AFDC funds shall be made, as specified in Section 20-101.

## 44-133 TREATMENT OF INCOME - AFDC (Continued)

44-113

AFDC .5 Stepfather's Income

- .51 When the stepfather is included in the family budget unit (see Sections 44-213.3 and 44-213.4), his net nonexempt income is net income to the family budget unit for purposes of both eligibility determination and grant computation.

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44-133 TREATMENT OF INCOME - AFDC (Continued)

44-133

AFDC

.52 When the stepfather is excluded from the family budget unit but his wife requests that her needs, or the needs of any of his children, including their children in common, be taken into consideration in determining the eligibility of, or in computing the amount of aid payment for her eligible children, the county must determine his ability to support these persons and himself on the basis of the AFDC Minimum Basic Standard of Adequate Care (Section 44-212.1). Allow the deduction from earnings from work expenses in accordance with Section 44-113.23 and .24 but do not allow earned income exemption.

.521 If his income meets their combined need, exclude his wife and his children from the AFDC family budget unit for purposes of both eligibility determination and grant computation. His wife's income, including her community interest in his income, is considered net income to the family budget unit. Her community interest in his income is computed as follows:

a. Earnings: The remainder, up to one-half of his total earnings, after deducting the following:

- The stepfather's prior support liability. (For purposes of this section, the prior support liability of the stepfather shall be limited to the actual amounts contributed by him whether voluntarily or under court order, to the support of his children by a woman other than his current wife.); and

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44-133

TREATMENT OF INCOME - AFDC (Continued)

44-133

AFDC

- \$300

plus

- b. Other Income - one-half of all community income, such as interest and dividends, when not included in the determination set forth in Item a., above.

.522 If his income does not meet their combined need, include in the family budget unit his wife and his children for whom she requests aid for purposes of eligibility determination and include only his wife for purposes of grant determination. Net income to the family budget unit from the stepfather shall be computed as follows:

- a. The wife's community interest in the stepfather's income as computed in .521 above; plus
- b. The remainder after subtracting the following amounts from his gross income
- the amount computed in a. above
  - work-related expenses in accordance with Sections 44-113.23 and 44-113.24
  - his needs, and those of the members of the stepfather unit who are excluded from the family budget unit, computed on the basis of the standard or assistance (see Section 44-315.511(a)). For purposes of this section the stepfather unit is the stepfather plus his children, including children he has in common with his wife who are not included in the FBU?

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Revise: 42-405.2  
42-407.2

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42-405    RIGHTS AND RESPONSIBILITIES OF APPLICANTS OR RECIPIENTS  
(Continued)

42-405

AB  
ATD  
OAS  
AFDC  
MN

.2    Informing County of Residence Changes

- .21    An applicant or recipient, including the parent or person responsible for the child receiving aid in AFDC, shall immediately inform the county to which he applied, or the county paying aid, if he goes to another county, state, or country, regardless of the anticipated date of return. (See Section 40-181.5.)
- .22    Such an applicant or recipient shall cooperate with the county welfare department and provide the county with a monthly written statement explaining his reasons for absence from California, his intent to return to California and anticipated date of return. Failure to promptly provide such statements will result in immediate discontinuance of aid payments.

42-406    COUNTY WELFARE DEPARTMENT RESPONSIBILITY

42-406

- .1    Physical absence from the state indicates a possible change of residence. The county shall make inquiry, with the next aid payment, from all applicants or recipients who have been continuously absent from this state for 30 days or longer in order to ascertain the recipient's intent to maintain California residency. If the inquiry establishes (see Section 42-407.2) that the recipient is no longer a California resident, aid shall be discontinued immediately.

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42-406 COUNTY WELFARE DEPARTMENT RESPONSIBILITY(Continued)

42-406

AB  
ATD  
OAS  
AFDC  
MN

.2 The inquiry shall include, but is not limited to, the following:

.21 Statement of the applicant or recipient declaring his anticipated date of return to California, or his intent not to return to California.

.22 Statement of the applicant or recipient declaring his reason for continued absence from California.

.23 Statement of the applicant or recipient delineating the present location and status of the housing arrangements (owned, leased, or rented) for himself and his family (spouse and children), and his current employment status.

.24 Notice to the applicant or recipient that his failure to respond to the inquiry will result in his ineligibility and termination of aid payments.

42-407 EVIDENCE OF RESIDENCE INTENTION

42-407

AB  
ATD  
OAS  
AFDC  
MN

.2 Absence from the State

.21 If an applicant or recipient does not respond, within 30 days, to the monthly county inquiry of residence (Section 42-406), it shall be presumed that he does not intend to maintain California residency and aid shall be discontinued immediately.

Effective 10/1/71



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42-407 EVIDENCE OF RESIDENCE INTENTION (Continued)

42-407

AB  
ATD  
OAS  
AFDC  
MN

.235 the applicant or recipient has been employed out of state since leaving California

.236 the applicant or recipient has obtained an out-of-state motor vehicle driver's license since leaving California

.237 any other act by the applicant or recipient which indicates his intent to establish residence outside California.

AB  
ATD  
OAS  
AFDC  
MN

.24 Continuous absence of 60 days or longer shall not be prima facie evidence of the applicant's or recipient's intent to have changed his place of residence to a place outside of California where he clearly shows:

.241 he has not, by act or intent, established residence outside of California; and

.242 his return to California was prevented by illness or an emergency.

.25 If after being disqualified for continued absence, the recipient returns to the State within 60 days after leaving, and he is otherwise eligible, he shall be granted aid on the first day of the month following his application.

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42-407 EVIDENCE OF RESIDENCE INTENTION (Continued)

42-407

AB  
ATD  
OAS  
AFDC  
MN

- .22 If the applicant or recipient responds to the inquiry, and advises the county that he does not intend to return to California, aid shall be discontinued immediately.
- .23 If the applicant or recipient responds to the inquiry and advises the county that he intends to maintain his California residency but he remains out of state for 60 days or longer, his continued absence is prima facie evidence of the applicant's or recipient's intent to have changed his place of residence to a place outside of California subject to Section 42-407.24. Such absence in itself is sufficient evidence to support a determination that the applicant or recipient has established residence outside of California. Therefore, his intent to return must be supported by one or a combination of the following:
- .231 family members with whom the applicant or recipient lived, currently live in California.
- .232 the applicant or recipient has continued maintenance of his California housing arrangements (owned, leased or rented).
- .233 the applicant or recipient has employment or business interests in California
- and must not be contradicted by any of the following:
- .234 the applicant or recipient has purchased or leased a house out of state since leaving California

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**Revise:**

Section 42-209

44-101.3

44-101.4

44-101.7

44-111.41

44-111.43

44-111.44

**Repeal:**

Section 44-135

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42-209 DIFFERENTIATION OF PERSONAL PROPERTY AND INCOME

42-209

AB  
APSB  
ATD  
OAS  
AFDC

When, as a result of the receipt of a lump-sum payment listed in Section 44-111.41, the property reserve on the first of the month following its receipt exceeds the amount allowable, the excess shall be income in that month. Any unexpended portion of such income becomes personal property again on the first of the month following that in which it was considered income.

44-101 INCOME DEFINITIONS (Continued)

44-101

AB  
APSB  
ATD  
OAS  
AFDC.3 Current Income

- .31 Current income of a recipient is all income which is available to him during a month without regard to any allowable exemptions or deductions.

44-101 INCOME DEFINITIONS (Continued)

44-101

AB  
APSB  
ATD  
OAS  
AFDC.4 Casual Income and Income from an Inconsequential Resource

- .41 Casual income and inconsequential assistance is income in cash or in kind which is: (1) unpredictable as to amount and time of receipt; (2) of short duration; and (3) by itself, of negligible importance in meeting continuing needs under the appropriate aid standard.
- .42 Income from an inconsequential resource is the net return from an interest in real or personal property which, by itself, makes no appreciable contribution to the continuing needs of a recipient under the aid standard.

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44-111 PAYMENTS EXCLUDED OR EXEMPT FROM CONSIDERATION AS INCOME  
(Continued)

44-111

AB  
APSB  
ATD  
OAS  
AFDC

.43 Loans - The following loans are not considered as income or resources:

.431 Loans made under Title III of the Federal Economic Opportunity Act (Special Programs to Combat Poverty in Rural Areas).

.432 Loans or grants to undergraduate students made or insured under any program administered by the State Scholarship and Loan Commission or a college accredited by the Western Association of Schools and Colleges when the conditions under which they are obtained and used prevent their use for current living costs.

.433 Any grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the Federal Commissioner of Education.

.434 Any other grant or loan which is not available to meet current needs.

.44 Casual Income and Income from An Inconsequential Resource

.441 The first sixty dollars (\$60) per quarter of casual income and income from an inconsequential resource which is received infrequently or irregularly is considered exempt from consideration as income. (See Section 44-101.4.)

Effective 10/1/71

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CONTINUATION SHEET  
FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

## 44-102 AVAILABILITY OF INCOME (Continued)

44-102

AB  
APSB  
ATD  
OAS  
AFDC

- .2 Interest income which is received on a regular basis but less frequently than monthly, shall be apportioned equally over the number of months it has been accrued beginning with the month after receipt.
- .3 All other receipts of income are considered currently available during the month received. (Exception - See Section 42-219, Acquisition and Conversion of Real and Personal Property.)
- .4 Unexpended income from all sources during any month becomes current income in the following budget period. Unexpended refers to the amount by which the net nonexempt income (Section 44-113) in a month exceeds the recipient's total need in that month.

44-111 PAYMENTS EXCLUDED OR EXEMPT FROM CONSIDERATION AS INCOME  
(Continued)

44-111

AB  
APSB  
ATD  
OAS  
AFDC

- .4 Exclusions or Exemptions of Other Payments and Income
- .41 The following benefits when paid in a nonrecurring lump-sum amount are considered personal property rather than income:
- .411 OASDI Income
- .412 Railroad Retirement Benefits
- .413 Veteran's Benefits
- .414 Workman's Compensation
- .415 Disability Insurance
- .416 Other social insurance payments similar to those listed in Items .411 through .415.

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(Pursuant to Government Code Section 11380.1)

44-101 INCOME DEFINITIONS (Continued)

44-101

AB  
APSB  
ATD  
OAS  
AFDC

.7 Lump-Sum Income

.71 Recurring lump-sum income is: (1) income accrued over two or more months and expected to be received at intervals in the future; and (2) a recurring benefit received less frequently than monthly.

.72 Nonrecurring lump-sum income is income which is accrued over two or more months and not expected to be received in the same amount at intervals in the future; or is a payment of money which is not related to any time period, such as death benefits or inheritances.

44-101 INCOME DEFINITIONS (Continued)

44-101

AB  
APSB  
ATD  
OAS  
AFDC

.9 Interest Income - Interest on a savings account in a bank, savings and loan association or other institution authorized to accept savings and interest which is received as a result of any contractual obligation.

44-102 AVAILABILITY OF INCOME

44-102

AB  
APSB  
ATD  
OAS  
AFDC

Availability depends upon: (1) the date of receipt; and (2) the number of months the income is intended to cover. It may be necessary in certain instances to apportion income to future months. Such income is current income to the month to which it is apportioned.

AFDC

.1 An employee under an annual contract of employment shall have the income from such contract apportioned equally over the period of the contract beginning with the first month of the contract when he works and receives income from such contract in fewer than twelve (12) months, but more than eight (8) months.

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(Pursuant to Government Code Section 11380.1)

44-111 PAYMENTS EXCLUDED OR EXEMPT FROM CONSIDERATION AS INCOME 44-111  
(Continued)AB  
APSB  
ATD  
OAS  
AFDC

A quarter is three consecutive calendar months commencing with the first day of the first month and ending with the last day of the third month. The first month for each of the four quarters shall be January, April, July and October.

44-113 NET INCOME 44-113

AB  
APSB  
ATD  
OAS  
AFDC

.6 Unexpended Income

Unexpended income from one month apportioned to subsequent months (Section 44-102.3) is net nonexempt income to such months and is not subject to any further reduction.

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(Pursuant to Government Code Section 11380.1)

The following regulations are to be repealed effective 10/1/71:

Section 44-135 Treatment Of Recurring Lump Sum Income-All Programs

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FACE SHEET  
FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

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SEP 24 1971

Office of Administrative Procedure

**ENDORSED**APPROVED FOR FILING  
GOV. CODE 11380.1

SEP 24 1971

Office of Administrative Procedure

Copy below is hereby certified to be a true  
and correct copy of regulations adopted, or  
amended, or an order of repeal by:

State Department of Social Welfare

(Agency)

Dated: September 24, 1971

By: 

Director

(Title)

**FILED**In the office of the Secretary of State  
of the State of California

SEP 24 1971

At 11:05 o'clock a.m.

EDMUND G. BROWN, Jr., Secretary of State

By: 

Deputy Secretary of State

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After proceedings had in accordance with the provisions of the Administrative Procedure Act (Gov. Code, Title 2, Div. 3, Part I, Chapter 4.5) and pursuant to the authority vested by Sections 10552, 10553, 10554 and 10604 of the Welfare and Institutions Code, the Department of Social Welfare hereby repeals, amends, and adopts regulations referred to in Title 22, California Administrative Code, as hereinafter set forth.

These regulations do not contain any building standards.

#### FINDING OF EMERGENCY

The following regulations are emergency measures necessary for the immediate preservation of the public health, safety and general welfare within the meaning of the provisions of Section 11421(b) of the Government Code:

#### Revise:

Section 40-101  
40-107  
40-115  
40-126  
40-127  
40-129  
40-157  
40-181

Chapter 41-100 (also renumbered from 42-100)  
41-300 (also renumbered from 42-200)  
41-400 (also renumbered from 42-300)

Chapter 42-100 (also renumbered from 41-100)  
42-200 (also renumbered from 41-300)  
42-400 (also renumbered from 41-200 and 41-220)  
42-500 (also renumbered from 42-600)

Chapter 43-100 (also renumbered from 42-500)

Section 44-103.241  
48-001

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CONTINUATION SHEET  
FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

The following facts constitute the emergency:

1. The Welfare Reform Act of 1971 (Chapter 578, Statutes of 1971) was enacted by the 1971 Legislature on August 11, 1971, and signed by the Governor on August 13, 1971. Section 43 of this legislation requires the act to be implemented by October 1, 1971.
2. Implementation of this legislation must be accomplished through regulations adopted by the State Department of Social Welfare.
3. The welfare reform program includes administrative reform and state legislation.
4. It is essential to the efficient administration of public social services that the administrative and legislative reforms be implemented by simultaneous regulation changes to minimize the disruption in the administration of such services by the county welfare departments.
5. In order to implement the Welfare Reform Act by October 1, 1971, it is necessary to adopt these regulations on an emergency basis.
6. The regulatory changes set forth above are adopted as emergency measures to become effective October 1, 1971, to comply with the requirements of Chapter 578 of the Statutes of 1971.

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**CONTINUATION SHEET  
FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

The following regulations are to be repealed effective October 1, 1971:

Division 42 - Special Eligibility, Chapter 42-100 - Blindness

Division 42 - Special Eligibility, Chapter 42-200 - Disability

Division 42 - Special Eligibility, Chapter 42-300 - Deprivation of Parental Support  
or Care

Division 41 - Public Assistance Eligibility and Aid Standards, Chapter 41-100 - Age

Division 41 - Public Assistance Eligibility and Aid Standards, Chapter 41-300 -  
Property

Division 41 - Public Assistance Eligibility and Aid Standards, Chapter 41-200 -  
Residence

Division 41 - Public Assistance Eligibility and Aid Standards, Chapter 41-220 -  
Interstate Cooperation on Recipient Movement

Division 42 - Special Eligibility, Chapter 42-600 - Institutional Status

Division 42 - Special Eligibility, Chapter 42-500 - Responsible Relatives

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(Pursuant to Government Code Section 11380.1)

## DIVISION 40 RECEPTION AND APPLICATION

## CHAPTER 40-100 RECEPTION AND APPLICATION

## 40-100 GENERAL

## 40-101 GENERAL POLICIES AND PRINCIPLES (Continued)

40-101

AB  
ATD  
OAS  
AFDC  
MN

- .12 It is the responsibility on all who are concerned with the administration of aid to do so with courtesy, consideration, and respect toward applicants and recipients and without attempting to elicit any unnecessary information. Administrative duties should be performed in such a manner as to secure for every applicant and recipient the amount of aid to which he is entitled under the law.

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CONTINUATION SHEET  
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(Pursuant to Government Code Section 11380.1)

40-107 COUNTY RESPONSIBILITY (Continued)

40-107

AB  
ATD  
OAS  
AFDC  
MN.2 Arrangement for Substitute Payee, Guardian or Conservator

When there is need for a person to act as a substitute payee on behalf of a recipient or for protection in the form of guardianship or conservatorship, the county is responsible for assisting in the development of a satisfactory plan. This includes initiating the necessary procedures for appointment of a guardian or conservator when such is needed.

In planning for selection and appointment of someone to act in behalf of a recipient as a substitute payee, guardian or conservator, every effort must be made to protect the interests of the recipient and to avoid any possible conflict of interest. Because of the potential conflict of interest, aid payment may not be made on behalf of an individual to a person serving as substitute payee, or as guardian or conservator of the individual's estate if such person is also the administrator, operator or fiscal agent of a public or private facility providing care to the individual.

If it appears to be in the best interest of the individual, a staff person, preferably in a unit or division of the county welfare department or State Department of Social Welfare Community Services Division which is responsible for providing protective services, may serve as a substitute payee or may be appointed by the court to serve as a guardian or conservator of the recipient. Aid may be paid on behalf of the

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(Pursuant to Government Code Section 11380.1)

40-107 COUNTY RESPONSIBILITY (Continued)

40-107

AB  
ATD  
OAS  
AFDC  
MN

recipient to such substitute payee, guardian or conservator subject to the requirements and limitations specified in Sections 44-307.6 and 44-303.1 for a county staff person who is selected to serve as substitute payee.

If a county staff person is appointed to serve as substitute payee, guardian or conservator of a recipient, the county is responsible for taking all necessary precautions to prevent either potential or actual conflict of interest.

.3 Eligibility Determination

The county is responsible for determining that the applicant or recipient meets the requirements of all necessary eligibility factors. This determination shall be based upon an evaluation of all available evidence. The gathering of such evidence and the determination of eligibility shall be a separate operation from and precede that of computing the amount of grant an eligible applicant is entitled to receive. This section is not meant to prevent the county from granting immediate need under Section 40-129. The factors to be considered in determining eligibility are as follows:

.31 Linking Eligibility Factors - Definition

Linking eligibility factors are those single conditions that link an applicant to a categorical aid program. These factors are: blindness, age, disability and deprivation of parental care or support.

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(Pursuant to Government Code Section 11380.1)

40-107 COUNTY RESPONSIBILITY (Continued)

40-107

AB  
ATD  
OAS  
AFDC  
MN.32 Nonlinking Eligibility Factors - Definition

Nonlinking eligibility factors are those factors that establish whether an applicant is entitled to assistance under the program to which he is linked. Although the categorical aid programs have these nonlinking eligibility factors in common, the standards differ. The nonlinking eligibility factors are: age, property, residence, financial status and institutional status.

.4 Grant Determination

Once the applicant's eligibility is established, the county is responsible for determining the applicant's financial and medical needs. The county is further responsible for developing and carrying out plans for meeting such needs within the limitations of the W&IC, the Regulations of the State Department of Social Welfare and the Department of Health Care Services.

.5 Notification of the Right to a Fair Hearing

At the time aid is granted or denied and whenever there is a change in eligibility or amount of payment, the recipient shall be advised of the right to request a fair hearing. If the recipient expresses dissatisfaction, the county shall make every effort to resolve the problem. However, if he chooses to have a fair hearing, the county has the further responsibility to assist him in the preparation of the fair hearing request, and of advising him of his right to be represented by counsel or other authorized representative as set forth in Chapter 22-000.

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(Pursuant to Government Code Section 11380.1)

40-115 THE APPLICATION PROCESS (Continued)

40-115

AFDC  
MN

.22 Exploration of Eligibility

The applicant will be given a Form WR 2 to complete and sign under penalty of perjury. Acceptable evidence must be obtained concerning the linking and nonlinking factors of eligibility. (See each Eligibility Chapter - Divisions 41 and 42 - for what is acceptable evidence.) When such evidence does not exist, the applicant's sworn statement under penalty of perjury will be sufficient.

.221 Before additional evidence may be obtained, the applicant must agree to continue the process of attempting to establish his eligibility.

.222 The applicant must participate in the gathering of evidence necessary to make an eligibility determination insofar as he has the capacity to do so.

.223 The principles and methods set forth in 40-157.2 and 40-157.3 shall be observed when obtaining evidence.

.224 The application process is not complete until all the evidence is in.

.23 Determination of Eligibility

.231 If eligibility is clearly established, aid is authorized and the eligible persons certified for medical assistance.

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(Pursuant to Government Code Section 11380.1)

40-115 THE APPLICATION PROCESS (Continued)

40-115

AFDC  
MN

.232 If it determined the applicant is ineligible for a cash grant, determination of eligibility or ineligibility for certification as a medically needy person or family is required before action is taken on the application.

40-126 PROMPTNESS REQUIREMENT

40-126

AB  
ATD  
OAS  
AFDC

- .1 The determination of eligibility including the gathering of any necessary evidence shall be completed and appropriate action on the application taken as rapidly as possible and within not more than 30 calendar days (60 days in ATD) starting with the first day after the filing of the application. In AB and ATD the determination of eligibility with respect to factors other than blindness or disability shall proceed concurrently with the determination of blindness or disability.
- .2. Inability to complete the determination of eligibility within the 30-day period (60 days in ATD) shall not be a basis for denying the application unless the delay is caused by the refusal of the applicant to participate in the gathering of evidence in accordance with Section 40-157.4. (See Section 40-171.12.) The specified time limit may be exceeded in situations where completion of the determination of eligibility is delayed because of circumstances beyond the control of the agency, e.g.:
- .21 Inability on the part of the recipient to provide necessary clarification.
- .22 Failure or delay on the part of an examining physician to provide all needed information.

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(Pursuant to Government Code Section 11380.1)

40-126 PROMPTNESS REQUIREMENT (Continued)

40-115

AB  
ATD  
OAS  
AFDC

- .23 Application is made prior to the date on which the applicant meets the eligibility requirements and the 30-day period (60 days in ATD) terminates before the applicant meets such requirements. (See Section 40-171 regarding application held pending eligibility.)

40-127 THE SIMPLIFIED ELIGIBILITY METHOD

40-127

AB  
ATD  
OAS  
MN

(For definition and description, see Section 10-505.1.)

.1 Applicant's Statement of Facts - General

The applicant or recipient's Statement of Facts (Form WR 2 shall be accepted as a basis for decision regarding his eligibility, amount of grant or share of cost except:

- .11 In relation to blindness and disability (see Sections 41-100 and 41-300).
- .12 When the WR 2 is incomplete, unclear or inconsistent (see Section 40-157) or when other circumstances indicate to a prudent person that further inquiry should be made.

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(Pursuant to Government Code Section 11380.1)

40-129 IMMEDIATE NEED (Continued)

40-129

AB  
ATD  
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AFDC

.2 Completion and Evaluation of the Applicant's Statement of Facts, WR 2  
Prior to authorization for immediate assistance the WR 2 shall be completed. When such form is completed, the county shall immediately review it, and if necessary, clarify with the applicant any questions there may be regarding it.

.21 If the WR 2 is completed and clarified to the satisfaction of the county and if it is consistent with all other evidence the county is able to obtain, the applicant must sign a sworn statement under the penalty of perjury that he needs assistance immediately.

40-129 IMMEDIATE NEED (Continued)

40-129

AB  
ATD  
OAS  
AFDC  
MN

.4 Authorization of Aid on Immediate Need Basis

.41 If it is determined from the facts stated on WR 2 and any supplementary facts the county has or can secure that the applicant is in immediate need and there is no evidence to the contrary, immediate assistance shall be granted. In such case, the statement "immediate need" is recorded on the authorization document. (See Section 44-317.7 regarding beginning date of aid when immediate need exists.) Only one grant of immediate assistance per case may be paid in any 30-day period.

.42 When the existence of immediate need is established the county shall pay the maximum amount to which the applicant would be otherwise eligible or \$100.00, whichever is less.

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(Pursuant to Government Code Section 11380.1)

40-129 IMMEDIATE NEED (Continued)

40-129

AFDC

- .43 The amount of aid granted as immediate assistance shall be offset against the first public assistance grant.
- .44 When aid is paid on the basis of immediate need, the county shall verify the applicant's eligibility within five working days of the date of payment.
- .441 If the eligibility verification process is not completed within five working days the county will bear the entire cost of the nonfederal portion of the partial payment made under this section.
- .442 If the eligibility verification process is completed within five working days and the applicant is found to be ineligible, the cost of the nonfederal portion of the partial payment made under this section will be shared by state and county.
- .45 When aid is paid on the basis of immediate need and upon subsequent investigation the applicant is found to be ineligible, the cost of the nonfederal portion of the immediate assistance will be shared by the state and county.

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(Pursuant to Government Code Section 11380.1)

40-157      PRINCIPLES AND METHODS OF DETERMINING ELIGIBILITY

40-157

AB  
ATD  
OAS  
MN

.1      Simplified Eligibility Method

.11      The applicant shall be provided with a copy of Form WR 2 (Statement of Facts Supporting Eligibility for Assistance) which he must complete and sign under the penalty of perjury. If requested to do so, the county shall assist the applicant in completing this form.

.12      The statements on the form shall be used as a basis for a determination regarding the applicant's eligibility as provided in Section 40-127. If these statements are incomplete, unclear or inconsistent or if other circumstances indicate that further inquiry should be made, the county shall clarify the facts with the applicant prior to making the determination.

.13      If the applicant is unable to clarify the facts, the county shall do so by obtaining acceptable evidence from the applicant or from other sources with the applicant's consent. (See each Eligibility Chapter - Divisions 41 and 42 - for what is acceptable evidence.)

.131      If the county is not able to obtain the acceptable evidence for an eligibility factor because it does not exist, the applicant's sworn statement under penalty of perjury will be sufficient to clarify the facts. However, the sworn statement by itself does not make an applicant eligible for aid; it merely clarifies the facts so that a decision may be made by the county as to whether the applicant meets the requirements of a particular factor of eligibility, either linking or nonlinking.

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40-157      PRINCIPLES AND METHODS OF DETERMINING ELIGIBILITY

40-157

AB  
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AB  
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.14 The principles and methods set forth in Section 40-157.2 and .3  
below shall be observed whenever evidence must be obtained.

.2 Principles of Gathering Evidence

.21 All information secured in the process of determining eligibility  
shall be evaluated in light of its internal consistency.

.22 Each piece of evidence shall be evaluated in light of the motives  
and adequacy of knowledge of the person completing the record or  
document or making the statement.

.23 Evidence shall be evaluated qualitatively rather than quantitatively.

.24 When evidence is conflicting, inconsistent or incomplete, the  
investigation shall be pursued to the point that the preponderance  
of evidence supports the determination regarding the applicant's  
eligibility.

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(Pursuant to Government Code Section 11380.1)

40-157 PRINCIPLES AND METHODS OF DETERMINING ELIGIBILITY

40-157

AB  
ATD  
OAS  
AFDC  
MN

- .25 The SDSW evaluates all examination reports made to determine the degree of blindness in AB or disability in ATD unless this is not required under circumstances specified in Chapter 41-300.

.3 Methods of Gathering Evidence

- .31 The gathering of evidence necessary to make an eligibility determination of an applicant is a joint responsibility of the applicant and the county.
- .311 The county shall inform the applicant what evidence is desired, why it is needed and how it will be used.
- .312 The applicant shall cooperate with the county in the evidence gathering process to the fullest extent possible.
- .313 When it is not possible for the applicant to obtain necessary evidence, the county shall obtain it for him.
- .32 When needed in the evidence gathering process, and as evidence of the applicant's consent thereto, a specific consent form, signed by the applicant and, if necessary, by his spouse (by both parents in AFDC when this is possible) shall be obtained for each such contact. The consent form should cover the purpose of the specific contact as well as the individual or agency to be consulted. Form 228, Applicant's Authorization for Release of Information, may be used for this purpose. A signed consent form is not required when public records are used.

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(Pursuant to Government Code Section 11380.1)

40-157 PRINCIPLES AND METHODS OF DETERMINING ELIGIBILITY

40-157

AB  
ATD  
OAS  
AFDC.4 Participation by the Applicant

If the applicant is able to assist in resolving incomplete, unclear or inconsistent statements on his Form WR 2 or is able to assist in the evidence gathering process but refuses to do either or both, the application shall be denied.

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(Pursuant to Government Code Section 11380.1)

DIVISION 41 LINKING FACTORS OF PUBLIC ASSISTANCE ELIGIBILITY

CHAPTER 41-100 BLINDNESS

## 41-101 ELIGIBILITY REQUIREMENT

AB | A person's visual impairment is an eligibility factor for AB and APSB and is determined in accordance with the definition of economic blindness as defined in Section 41-103.

41-101

## 41-103 DEFINITION OF BLINDNESS

AB | Economic blindness as used to determine eligibility is:

41-103

1. In general, central visual acuity of 20/200 or less in the better eye, with the aid of the best possible correcting glass.
2. Central visual acuity better than 20/200 if the widest diameter of the remaining visual field is not greater than 20 degrees.
3. If central visual acuity is better than 20/200 and remaining peripheral fields exceed 20 degrees, but are so placed, or shaped, as to be of little practical use, or in an operated eye the disability inherent in the eye condition indicates greater disability than the usual 20/200, the State Ophthalmologist shall use his discretion in recommending approval for aid if the report of pathology is of such character as to prevent applicant from providing himself with the necessities of life.

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**CONTINUATION SHEET  
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(Pursuant to Government Code Section 11380.1)

<u>AB</u>	41-110	DETERMINATION OF BLINDNESS	41-100
	41-111	EXAMINATIONS BY AUTHORIZED PHYSICIANS OR OPTOMETRISTS	41-111

AB | .1 Eye Examination and Report

An eye examination and report by a duly licensed and practicing physician, skilled in diseases of the eye, or by a duly licensed and practicing optometrist, are required to establish eligibility and continuance of eligibility. (See Section 41-125.) All eye examinations to establish blindness shall be made by a physician or optometrist authorized by the SDSW. (See Program Guide No. 2, Helping Individuals Adjust to Blindness.)

.2 Subsequent Eye Examinations

Subsequent eye examinations shall be made by an authorized physician or optometrist who had not previously examined the individual for purpose of Aid to the Blind, provided there is more than one such examiner of the category (ophthalmologist or optometrist) of his choice within a reasonable distance.

.3 Out-of-State Examiners

The names and addresses of physicians or optometrists not on the list who can be authorized to make examinations for persons visiting out-of-state may be obtained by writing to the SDSW. The individual's out-of-state address must be included in the letter.

	41-113	CHOICE OF EXAMINER	41-113
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AB | The individual shall have a choice of the kind of eye examination, either ophthalmological or optometric, as well as a choice of which authorized examiner is to make the examination. If no examiner of the category chosen is available in the locality in which the individual lives, he shall have a choice from a list of the nearest examiners. (See Sections 41-121 and 41-123)

	41-115	EYE EXAMINATION REPORTS	41-115
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The report of the eye examination shall be made on the form prescribed by the SDSW, Form BL 227, Physician's Report of Eye Examination, or BL 227A, Optometrist's Report of Eye Examination. Reports of examinations from clinics are acceptable if the examination and report are made by an authorized examiner. The full signature of the examiner is required on each report.

	41-117	REVIEW OF EXAMINATION REPORTS BY THE SDSW	41-117
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All reports of eye examinations and of psychiatric or neurological examination shall be reviewed and acted upon by the SDSW. Appropriate action by the county shall be taken in accord with the certification of the SDSW as to blindness. An examiner will be required to complete an additional Form BL 227 (supplement) to determine eligibility if there is a question of the results of the visual fields only, as in glaucoma, hysterical amblyopia and other conditions.

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(Pursuant to Government Code Section 11380.1)

41-119 CONFLICTING EYE EXAMINATION REPORTS

41-119

AB.1 Additional Eye Examinations

If the SDSW finds upon review of an eye examination report made within 18 months of a previous report, that a conflict exists with the previous eye examination report, another eye examination shall be made and the conflict resolved immediately.

If the recipient has had eye surgery or treatment since the last previous eye examination report, only the postoperative eye examination report is required unless the recipient is dissatisfied with the determination.

If an applicant or recipient is dissatisfied with the determination of eligibility based on a report of eye examination, another eye examination and report by another authorized examiner are required.

Occasionally, additional eye examinations or examination by a neurologist or psychiatrist are required to resolve a conflict. In this event eligibility as to degree of blindness is determined by the State Ophthalmologist based on preponderance of evidence.

If the applicant or recipient is dissatisfied with the reports obtained through the foregoing procedure, he may submit reports of other examinations made at his own expense by other examiners on the authorized lists.

.2 County Responsibility in Confirming Eye Examination

If a confirming eye examination report is required for a person who is currently a recipient of aid, the following procedure shall be used:

a. The recipient shall be notified immediately by the county:

- (1) That there is a difference in the examination reports concerning his eye condition;
- (2) That another eye examination is required immediately; and
- (3) That if he believes himself eligible to another type of assistance, he should file an application. This is designed to avoid possible loss of aid to the individual if continued eligibility on degree of blindness is not established. In the event the recipient is living in a county other than that which is responsible for payment of aid, the county paying aid shall notify the recipient that he should make application to the county in which he is living.

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**41-121 EYE EXAMINATION BY AN EXAMINER DESIGNATED BY THE SDSW**

**41-121**

AB If reports of eye examinations from authorized examiners are in conflict as to degree of blindness, an examination and report by a specific examiner designated by the SDSW are required. Such examiner shall be provided with a copy of each of the eye examination reports which are in conflict, except that the names of the examiners are to be omitted. Copies of the conflicting reports shall be sent to the county by the SDSW. Eligibility as to blindness shall be determined on the basis of the reports which agree.

**41-123 EYE EXAMINATION BY THE STATE OPHTHALMOLOGIST**

**41-123**

AB The State Ophthalmologist shall have the privilege of examining an applicant for, or recipient of, aid and of recommending action on the basis of all available information.

**41-125 PSYCHIATRIC EXAMINATION BY A NEUROLOGIST OR PSYCHIATRIST**

**41-125**

AB If an eye examiner is unable to determine a definite visual acuity or questions the degree of loss of vision claimed by the applicant or recipient, a second eye examination is required by an eye examiner who is skilled in detecting pathology. If the second examiner recommends an examination by a neurologist or psychiatrist, the SDSW will designate an examiner to determine whether there is involvement of the visual tracts or a neurological or psychiatric condition which results in little or no available vision for the individual.

**41-127 MENTAL INCOMPETENTS**

**41-127**

AB If the eye and/or psychiatric or neurological examination report shows that the individual is so mentally incompetent that he cannot cooperate with the examiner, or, if the examination has been made by a physician, sufficient eye, neurological pathology or psychiatric condition is not found to account for the loss of vision claimed, such report indicates ineligibility. If the examining physician reports sufficient pathology to account for the blindness, an estimate of visual acuity by the examiner may be accepted.

**41-129 MALINGERING**

**41-129**

AB If an eye and/or psychiatric or neurological examination report is completed in which the examiner states in effect that he believes the patient is malingering, such report may indicate ineligibility.

**41-131 HOME EYE EXAMINATION**

**41-131**

AB The report of an eye examination made in the home of the individual is acceptable on a statement from the attending physician (or, if there is no attending physician, from the social worker) that it would constitute a physical or mental hazard for the person to be transported to the office of the examiner. Such a statement shall accompany the Report of Eye Examination submitted to the SDSW.

When the county requests an ophthalmologist or an optometrist to make a home examination, and it is the only way to secure the required eye examination report, the examiner shall be advised to take the appropriate equipment with him. Any examiner who is asked to make an eye examination in the home of an applicant shall be furnished with a copy of the Instructions for Home Eye Examinations. Copies of these instructions are available upon request from the Division for the Blind, SDSW, Sacramento.

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41-141 REDETERMINATION OF BLINDNESS

41-141

AB | An annual reexamination of the eyes of a recipient shall be required except as follows:

1. An authorized examiner has reported that both eyes have been removed (bilateral enucleation).
2. The SDSW has indicated on the last eye report reviewed that no further eye examination is required.

If one or more of the following conditions exist, a reexamination of the eyes is required, even though the SDSW had previously notified the county that it was not necessary, except as provided in 1. above:

1. The recipient has had an eye operation. The eye examination following eye surgery shall be made within not less than 90 days or more than 120 days from the date of the surgery, unless permission for delay is obtained from the SDSW.
2. There are facts to indicate that the recipient's vision has improved or is better than shown by the eye examination report.
3. There are facts to indicate the recipient is malingering.
4. Aid has been discontinued for one year or more.

41-143 EXPENSES IN CONNECTION WITH EYE OR PSYCHIATRIC OR NEUROLOGICAL EXAMINATIONS

41-143

AB | There shall be no expense to the applicant, recipient or claimant for any eye and/or psychiatric or neurological examination required by the SDSW.

Payment for these examinations is an allowable county administrative expense. Payment shall be based upon reasonable and customary fees charged for comparable service in the community but shall not exceed the State Schedules of Maximum Allowances.

Necessary transportation expense to secure required eye and/or psychiatric or neurological examinations is allowable administrative expense.

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41-145 FAIR HEARINGS BASED ON BLINDNESS

41-145

AB | An individual who is dissatisfied with the determination as to blindness has the right to a fair hearing. Arrangements are made by the county for such additional eye, neurological or psychiatric examinations as are required by the SDSW.

If the SDSW finds that two or more examiners' reports indicate that the person's visual impairment comes within the definition of blindness, it is authorized to recommend to the county that aid be granted or restored without the formality of a hearing.

The appellant may submit additional reports of eye examinations at his own expense. If made by authorized examiners, such reports will be presented on the hearing of the appeal.

41-146 ACCEPTABLE EVIDENCE OF BLINDNESS

41-146

AB | Evidence necessary to support a determination of blindness shall be a completed copy of a current Form BL 227 or BL 227A signed by the appropriate SDSW reviewer.

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## DIVISION 41 LINKING FACTORS OF PUBLIC ASSISTANCE ELIGIBILITY

## CHAPTER 41-200 AGED

## 41-200 AGED - INTRODUCTION

41-200

OAS

This chapter is concerned with regulations, procedures and related requirements in establishing an applicant's eligibility for Old Age Security (OAS) with respect to the AGED factor.

## 41-201 AGED ELIGIBILITY REQUIREMENT

41-201

OAS

To be eligible for aid, a person must have reached his 65th birthday by the date aid begins.

## 41-202 ACCEPTABLE EVIDENCE OF AGED

41-202

OAS

.1 Evidence necessary to support a determination of agedness shall be at least one of the following clearly establishing that the applicant has reached his 65th birthday:

- a. Birth certificate
- b. Certificate of baptism
- c. Marriage license or certificate
- d. Family Bible or genealogical records
- e. Affidavits of a reputable person in accordance with W&I Code Section 12057(g).

Or any of the following dated at least five years prior to date of application:

- f. Voter's registration
- g. United States census records
- h. School records
- i. OASDI records

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41-202    ACCEPTABLE EVIDENCE OF AID (Continued)

41-202

OAS

- j. Homestead papers
- k. Immigration and naturalization records
- l. Poll tax records
- m. Court records
- n. Insurance policies
- o. Employment records and licenses
- p. Newspaper records and local histories
- q. Indian agency records
- r. Other governmental or local records

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CHAPTER 41-300 DISABILITY

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(Pursuant to Government Code Section 11380.1)

41-300 DISABILITY - INTRODUCTION

41-300

ATD | This chapter is concerned with regulations, procedures and related requirements in establishing an applicant's eligibility for Aid to the Disabled (ATD) with respect to the Disability factor.

41-301 ELIGIBILITY REQUIREMENT - ATD

41-301

ATD | To be eligible for aid, a person's disability, or combination of disabilities, shall come within the meaning of permanent and total disability as defined in Section 42-203.

41-303 DEFINITION OF PERMANENT AND TOTAL DISABILITY

41-303

ATD | .1 General Requirement

The applicant shall have a major medically verifiable physical, mental or emotional impairment or combination of impairments. These impairments shall be permanent and total and substantially prevent him from engaging in a useful occupation within his competence, such as gainful employment or homemaking. A useful occupation may be seasonal if performed regularly each year.

.2 Determination of Disability

The disability determination takes into account not only the diagnosis but the stage of the impairment, the person's response to his illness or condition, remedial services available to the individual and the amount of risk involved in possible treatment.

.21 Permanent Disability

For the disability to be considered permanent, the impairment(s) of major importance must be expected to continue throughout the lifetime of the individual; that is: (1) likely to be of long continued or indefinite duration or in a terminal stage; and (2) unlikely to improve through any known and generally accepted medical treatment or be diminished through such treatment to the extent that it ceases to be of major importance, even though partial improvement may be expected.

The fact that vocational rehabilitation or work training is or may be a possibility for the applicant does not preclude a finding of permanent disability.

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(Pursuant to Government Code Section 11380.1)

41-903 DEFINITION OF PERMANENT AND TOTAL DISABILITY (Continued)

41-903

ATD

.211 Persons shall not be required to take major risks in order to qualify for aid, with special reference to surgery or controversial or dangerous medicines. Bona fide religious objections to treatment shall be respected.

.212 Obesity, alcoholism, or continued smoking in the face of a diagnosis which contraindicates, shall not disqualify the person for aid if his medical condition has reached a level of severity which indicates disability.

.213 The judgment concerning permanence shall depend on how advanced the condition is and the extent of the involvement at the time of the application. Some illnesses are subject to fluctuations. Others are held in check temporarily by treatment, e.g., hormone therapy or surgery in certain cancer cases.

.22 Total Disability

To be totally disabled, the person must be substantially prevented by reason of his permanent impairment from engaging in a useful occupation within his competence.

Total disability within the definition does not mean inability to perform all tasks in a given occupation. For example, a homemaker confined to a wheelchair would be eligible even though she could perform some of the tasks in homemaking, but there remain a substantial number which she cannot perform without assistance.

.3 Useful Occupation

.31 Useful Occupation - "Other Than Homemaking"

Useful Occupation refers to gainful employment for which there is a return in wages. It does not include activities primarily of a therapeutic or rehabilitative value, even though there may be some money return for the activity.

.311 "Made Work" which exists only to give employment to a particular individual shall not be regarded as a useful occupation.

.312 Employment in a sheltered workshop may or may not be considered a useful occupation depending upon the workshop auspices, wages earned, number of hours worked daily, similar jobs available in a competitive setting, job performance, etc.

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41-303 DEFINITION OF PERMANENT AND TOTAL DISABILITY (Continued)

41-303

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.32 Useful Occupation - Homemaking

A homemaker is defined as a person of either sex who carries homemaking responsibilities for at least one person in addition to himself. A homemaker is evaluated against both employability and ability to carry the major duties of homemaking. A person living alone shall not be evaluated as a homemaker.

A person who has carried the responsibilities for both homemaking and employment and is unable to continue employment shall be evaluated against homemaking. Homemaking responsibilities include maintenance of the home in an acceptable state of cleanliness, laundry, preparation of meals, procurement of necessary supplies. Activities of homemaking also include: the care of young children, such as lifting and carrying infants, and in an emergency, preschool children; accompanying children to community activities; to sources of medical care; and in primitive settings, carrying water or fuel and building fires.

A finding that a person is unable to perform the occupation of homemaking shall require a determination that he is unable to perform a significant combination or grouping of homemaking activities because of his permanent impairment.

.33 Substantially Prevents

A person is substantially prevented from engaging in a useful occupation (1) if he is unable to perform activities required by gainful employment well enough, for a sufficient number of hours or with sufficient regularity to receive substantial and predictable remuneration for such employment; or (2) with regard to the homemaker, the disability must be such that it prevents the person from performing consistently and adequately a significant combination of homemaking activities within acceptable standards of decency and health.

.34 Competence

Competence means that the impairment substantially prevents performance of activities required by any useful occupation for which the individual is fitted by training, education, or work experience and which exists in the community. Competence is based on age, education, training, and psychological makeup.

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41-303

## DEFINITION OF PERMANENT AND TOTAL DISABILITY (Continued)

41-303

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.341 Community is the locality in which a person lives or which is within a reasonable distance from his home. A reasonable distance is determined by the availability of transportation, public or private, and the person's ability to drive a car if this is necessary. The possible effect of insulin or diabetic coma, epileptiform seizures, poor vision, fatigability, and other relevant factors shall be considered in relation to the person's ability to travel to and from work.

A person shall not be required to uproot his family and move to another community unless he has a job which is within his competence in that community. Conversely, he would be ineligible if, without reasonable cause, he moves from a community where he could obtain work to a community where such employment is not available.

.4 Qualifying Medical Impairments

Any major physical, mental or emotional condition or disease which is irremediable in nature and expected to last throughout the lifetime of the individual and which totally disables the individual may be considered a disability for the purpose of ATD. (See Section 42-203.6, Qualifying Personality and Emotional Disorders, and Section 42-203.7, Nonqualifying Criteria.)

.5 Two or More Impairments

.51 A person may have two or more impairments, neither of which alone may be severe enough to qualify him, but the combined impairments are evaluated by the ATD Review Teams in light of their combined effect upon the person's ability to engage in a useful occupation.

.52 Conditions Excluded by Regulation

Persons who have two or more impairments or conditions, one of which (such as alcoholism) may be excluded by regulation, are evaluated on the severity of the impairment which is not excluded.

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41-303 DEFINITION OF PERMANENT AND TOTAL DISABILITY (Continued)

41-303

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.6 Qualifying Personality and Emotional Disorders

Persons with certain personality and emotional disorders may be eligible:

.61 If they are combined with other significant impairments;

or

.62 If it is established that the disorder has constituted a barrier to engaging in a useful occupation for a three-year period immediately preceding the date of application, unsuccessful attempts at employment or homemaking during the three-year period prior to application may show conclusively that the emotional disorder was a barrier to employment;

and

.63 A diagnosis is made by a board-eligible or board-certified psychiatrist.

While it is presumed that unless the disorder has continued for a three-year period eligibility does not exist, this is a rebuttable presumption which may be overcome by documentation from a board-eligible or board-certified psychiatrist that one of the following exist:

- (a) extreme physical complaints, not organic in basis, that approximate delusions in their extent,  
or
- (b) such preoccupation with symptoms that the person is so withdrawn or obsessed that he is incapacitated, or
- (c) the emotional disorder interferes with the functioning of some part of his body in the same manner as if it were a major physical impairment.

.7 Nonqualifying Criteria

.71 Unemployability for other than medical reasons is not a qualifying criterion.

.72 Nonqualifying Personality Disorders

Persons with the following personality disorders are ineligible in the absence of other major physical impairments or underlying psychiatric illness: (See Diagnostic and Statistical Manual of the American Psychiatric Association, Second Edition, for definitions.)

Antisocial Personality	301.7
Sexual Deviations	302
Alcoholism	303
Drug Dependence	304

If other qualifying impairments have not been documented, the county medical consultant may disapprove the application on the basis of remediability or lack of totality of disability. A statement from the county medical consultant on the disapproval of the disability shall be submitted to the ATD Review Section at the time denial action is taken by the county.



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41-307

DETERMINATION OF PERMANENT AND TOTAL DISABILITY

41-307

ATD .1 State and County Responsibilities

.11 State

The determination within the meaning of Section 42-203 shall be made by a ATD Review Team composed of a physician and a medical social worker. The determination shall be based on reports submitted by the county pursuant to Sections 42-213 through 42-217.

.12 County

The county has a significant responsibility for the promptness and accuracy of the ultimate decision. The county medical consultant has an enabling role as described in Sections 42-221 and 42-231. (Also see Section 40-155.5.)

.2 Factors in Determination of Disability

The impairment or disease is the central fact in the determination of disability; but the determination may involve the evaluation of medical, psychological, social and other data in order to reach a decision as to whether the person is disabled for purposes of ATD.

.21 Changes in Disability and Effect Upon Eligibility

Persons are judged medically eligible or ineligible on the basis of the situation existing at the time of application. Deterioration in the medical situation may make eligible those who have been disapproved, or improvement may make persons ineligible who have been approved. Consequently, the possibility of change should be kept in mind by the county. The applicant shall be informed that reapplication is possible should he feel that he has become worse. Conversely, the county should be aware of the possibility of sufficient improvement, especially in those recipients who have had medical treatment, that they may no longer qualify for ATD. (See Section 42-229.)

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41-311 MEDICAL EVIDENCE

41-311

ATD  
MN

**.1 Medical Examination Required**

A medical examination by a duly licensed practicing physician is required except as specified in .11 or .22 below or when another examination would prove a hardship for the applicant and the ATD Review Section determines the existing report is acceptable.

To be valid, medical reports shall be based on medical examinations completed no earlier than three months prior to date of application, except when another examination would be a hardship for the individual and the ATD Review Section determines that the existing report is reasonably recent and the condition reported is not likely to have improved.

To secure existing evidence as quickly as possible, the county eligibility worker shall ask the applicant to fill out the ATD supplement to the ABDM 201, Form DM 201C; shall obtain his written permission for release of medical information; and shall initiate sending letters to the agencies or hospitals as indicated.

Medical evidence shall include a history and response to any treatment. The examination must be sufficiently comprehensive to determine the extent and degree of the applicant's impairment or impairments. If laboratory work or X-rays are necessary, they shall be ordered by the physician and the results shall be included in his report.

- .11** Where mental retardation is indicated as a major cause of the disability the eligibility worker shall secure psychological and medical reports as needed.

Whenever medical reports indicate mental retardation of such a degree that the applicant is unable to guard against common dangers, is in need of care and supervision or is so retarded that he cannot be properly tested, the psychological examination may be omitted unless requested by the ATD Review Team. Conversely, when an evaluation by a qualified psychologist shows the applicant is too retarded to be tested or has a full scale IQ under 60, the medical examination report (DM-1) may be omitted. In these instances the psychological report may be submitted in lieu of the medical report. Whenever the medical or psychological examination fails to give a clear picture of the severity of the impairment, the ATD Review Team may request additional medical or social information. (See Section 42-211.2.)

**.2 County Responsibility – Supplementary Medical Evidence**

The county eligibility worker shall secure and submit supplementary medical evidence if it is available in the files of other agencies and institutions.

**.21 Activity Limitations**

The activity limitations which the impairment creates shall be included in medical evidence submitted by the physician and shall be complemented by information submitted by the applicant and the eligibility worker on Forms DM-201B, DM-201C or DM-201D.

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41-211 MEDICAL EVIDENCE (Continued)

41-211

ATD  
MN

- .22 Refusal to submit to a psychiatric examination shall not in itself be considered grounds for denial of aid when there is evidence that the disability is based upon a psychosis, and the refusal is the result of this condition. Whenever an applicant refuses to have a psychiatric examination, an immediate referral shall be made for a service assessment on Form ABDM 261. If this referral is refused, the eligibility worker shall send the DM 201B, and DM 201C and whatever other material is available to the ATD Review Section for a decision, informing the ATD Review Section of their inability to obtain a psychiatric evaluation.

If the applicant has had a service assessment, a copy of this assessment shall be sent to the ATD Review Section with Forms DM 201B and DM 201C.

Although the ATD Review Team may waive a psychiatric examination in these cases, it is still necessary to have a DM 1 completed by a licensed physician. This shall be secured in the community by the eligibility worker.

If the applicant refuses to have a psychiatric interview, a physical examination or both, and the ATD Review Team is unable to make a finding of disability on the basis of a social report, the county may deny the application on the basis of applicant's refusal to cooperate.

(See Regulations 40-128, 10-501.4, 10-303.2 and 42-213.)

.23 Need for Additional Medical Evidence

If the medical findings are unclear, contradictory or unsubstantiated the county, before submitting its report to the ATD Review Team, shall endeavor to resolve the questions through (1) its medical consultants; (2) contact with the examining physician; and/or (3) obtain an examination by a specialist.

When the medical evidence submitted is insufficient to give the ATD Review Team an adequate picture of the applicant's disability, the team may indicate what further medical information is needed or request more social history for a better understanding of the manner in which the impairment affects the client's functioning. When further medical information is to be obtained, the county medical consultant shall assist the eligibility worker in obtaining information from the examining physician or in securing an examination by a specialist.

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41-313 MEDICAL REPORTS (PHYSICAL OR PSYCHIATRIC EXAMINATION)

41-313

ATD  
MN

.1 General

.11 Form of Report

Reports of initial and other examinations shall be made on required Forms DM 1 (Medical Report) or DM 1A (Psychiatric Report) or both where indicated. This requirement may be waived when:

- .111 The examination is done by a specialist (board-certified or eligible for board examinations). In such case an appropriate narrative report is acceptable provided it contains at least the same information requested on the otherwise required forms.
- .112 Where official regulations or other pertinent factors prohibit the release of medical information on Form DM 1, a current report from the agency or physician may be accepted in lieu of Form DM 1 provided it contains the necessary information.
- .113 The report is supplemental in nature and is compiled from clinic or hospital records.
- .114 The report is obtained by the applicant at his own expense. The same requirement as in .112 above with respect to content of such report is also applicable.
- .115 The medical report or records from a hospital or clinic show that applicant's condition is terminal or documents the existence of one of the conditions listed under Immediate Need. (See Section 40-129.3.)

.12 Currency of Report

A report shall not be considered valid if the examination upon which it is based was completed more than 90 days prior to the date of application unless another examination would prove a hardship for the applicant and the ATD Review Team determines the existing report to be acceptable (also see Section 42-211).

.13 County Review

The county shall review reports of examination for completeness before submission to the ATD Review Team.

.14 Release of Medical Reports

Upon request and with written permission from the applicant or recipient, the county shall supply copies of medical reports to his physician.

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41-313 MEDICAL REPORTS (PHYSICAL OR PSYCHIATRIC EXAMINATION) (Continued)

41-313

ATD  
MN

**.2 Psychiatric Report**

When the eligibility worker believes that applicant has a psychiatric impairment or applicant's history with the agency indicates the existence of a mental or emotional problem, he shall arrange for the applicant to have a psychiatric evaluation. The eligibility worker shall include in the referral letter to the psychiatrist a brief summary of the applicant's problem and provide him with appropriate information such as a social assessment if one has been made or a summary of previous contacts. This summary is to inform the psychiatrist of the reasons why the applicant is considered mentally or emotionally disturbed. This information shall be sent in advance of the appointment. The social summary may be in narrative style or Form DM 2 may be used.

**.21 Special Procedures**

.211 When the applicant has no history of hospitalization, the DM 1A or a narrative report from a psychiatrist shall be used if:

- a. The primary impairment appears to be of emotional or psychiatric origin.
- b. The applicant has or is believed to have a mental impairment in addition to a physical impairment. In these cases the DM 1A shall supplement the DM 1.
- c. Requested by the review team to supplement the DM 1.

.212 When the applicant has been released from a state hospital

- a. A DM 1A or narrative report shall be obtained from a board-eligible or board-certified psychiatrist.
- b. A DM 1 shall supplement the DM 1A if the applicant has a physical impairment in addition to the mental impairment.
- c. Within three months of release from a state hospital or county mental health facility a current summary from the facility may be submitted in lieu of an additional psychiatric evaluation.
- d. Supplementary social information shall be obtained from the local office of the Community Services Division or the county mental health clinic as appropriate. This information shall be appended to the DM 201 B by the eligibility worker.
- e. A report supplementary to the DM 1A shall be obtained from the state hospital or county mental health facility if the applicant was released more than three months prior to application and the hospitalization was within the last five years.

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**41-315 PSYCHOLOGICAL REPORTS**

41-315

ATD  
MN

A licensed psychologist or a psychological assistant who meets the requirements of Section 2913 of the Business and Professions Code shall document the existence of mental retardation unless all the other available documentation indicates severe mental retardation, in which case the report of a school psychometrist may be used or the examination waived. (See Section 42-211.11.)

- .1 Reports from a licensed psychologist shall have affixed to them the signature and license number of the psychologist. Reports from a Psychological Assistant shall be countersigned by the licensed psychologist or the board-certified psychiatrist employing him and include the employer's license number.

.2 Psychological Reports for Purpose of Evaluating Mental Retardation

A psychological report given for the purpose of evaluating intelligence shall name the tests given, the mental age, intelligence quotient, interpretation of findings diagnosis and prognosis.

.3 Psychological Reports for Purposes Other Than Mental Retardation

A psychological report given for the purpose of helping to evaluate brain damage, personality disorders or psychosis shall include the tests given, a breakdown by subtests, a performance and verbal IQ, the psychologist's interpretation of findings, his impression of the individual tested and the individual's potentials for employment or homemaking. As this type of report is more comprehensive than a test evaluating only intelligence, payment is made in accordance with the State Department of Finance Schedule of Maximum Allowances.

If an applicant refuses to have a psychological evaluation, a referral shall be made for a service assessment and the procedure outlined in Section 42-211.22 shall be followed. The applicant shall be informed that this refusal may lead to a denial on the basis of lack of cooperation.

.4 Currency of Reports

- a. There is no time limit on psychological evaluations of intelligence but the findings shall report on the condition of the individual on a reasonably current basis.
- b. When a psychological evaluation for purposes other than mental retardation is submitted, the examination upon which it is based shall have a completion date within 90 days prior to the date of application unless another report would be a hardship on the applicant.

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41-317 SOCIAL INFORMATION REPORT

41-317

ATD  
MN

**.1 Required Report and Form**

The eligibility worker shall complete the DM 201 B and give or mail Form 201 C, Statement of Facts Regarding Disability, to the applicant to complete, providing assistance in filling out the forms, if indicated. Whenever the applicant appears to be emotionally disturbed or mentally ill the eligibility worker shall make a referral to Social Services for assessment of a possible need for service. (See Regulations 40-128.3 and 42-211.22.) If such a referral is made, the eligibility worker shall obtain a copy of the services summary on either the DM-2 or in narrative style.

The eligibility worker shall forward to the ATD Review Section the DM 201 B, the DM 201 C, the social service summary, medical and psychiatric reports, and any other medical documentation. The complete medical-social packet shall be attached to the DM-4 and transmitted for submission to the team.

**.2 Reapplications and Group II Reevaluations**

In instances of reapplications made within a year following disapproval by the ATD Review Team or when a Group II case is to be reevaluated Form DM 201 D (Restatement of Facts Regarding Disability) shall be substituted for the DM 201 C. (See Sections 40-117.3 and 42.229.)

**.3 Purpose and Content**

Social information as provided by the eligibility worker on Form DM 201 B and the applicant on Form DM 201 C supplements the medical report and provides the ATD Review Section with information regarding the applicant's competency and ability to function. It enables the ATD Review Team to see the applicant as a person.

When the obtained information is confusing, or there are discrepancies and the picture is unclear and the ATD Review Team is unable to make a decision based on the medical factors, deferral may be made to obtain more comprehensive social information.

41-418 SUBMISSION OF REPORTS TO ATD REVIEW TEAM

41-418

ATD  
MN

The county shall submit the originals of required forms, supplemental reports, and additional evidence concerning each applicant in one packet accompanied by Form DM 4, Transmittal of ATD Reports, or its equivalent. (For retention of ATD applications see Operations Manual Section 23-357.)

DO NOT WRITE IN THIS SPACE

**CONTINUATION SHEET  
FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

41-319 CHOICE OF MEDICAL EXAMINER

41-319

ATD For the purpose of ATD disability determination, the county shall develop a system of obtaining  
MN comprehensive medical examinations and reports.

.1 Applicant Has Personal Physician or Is Under Clinic Care

- .11 The county medical consultant shall in appropriate cases determine whether the personal physician will 1) examine the applicant and complete the medical report or 2) submit to the county a summary of his clinical records. The first alternative is used for those physicians who regularly provide adequate reports promptly. The second alternative is used when the personal physician elects not to perform this service or when the treating physician, in the judgment of the county medical consultant, frequently provides inadequate reports, i.e., reports which are regularly deferred by State Disability Review Teams for additional information or reports which are not submitted promptly following examination or requests for medical information. When an independent medical examination is arranged for the applicant, he shall have the right to request that a summary report from his own physician be obtained.

- .12 Where an applicant is under clinic care the medical examination and report shall be completed by a clinic physician other than an intern. If resident staff performs this service, the physician must be licensed or have a Form 180-A filed with the Board of Medical Examiners. The medical report shall be current and complete. A compilation of past treatment records will not be accepted in lieu of an adequate medical report. Past and current clinical records are useful, however, as supplementary data and should be submitted when available.

.2 Applicant is Not Under Current Medical Care

If the applicant does not have his own physician or is not under current care in a clinic or hospital, he shall be referred to or may select a physician from an approved list developed and maintained by the county.

The list shall consist of names of approved physicians whose evaluations and reports are acceptable for administrative determinations of disability. As an alternative, the county may use the Department of Rehabilitation list of physicians.

.3 Additional Required Examinations

Additional examinations requested by the ATD Review Team or done in connection with a fair hearing shall not be accepted unless completed by a physician from the county's approved list.

41-421 APPLICANT DISSATISFACTION WITH MEDICAL EXAMINATION

41-421

ATD If an applicant is dissatisfied with the medical examination he receives, he may request another examination  
MN and shall be referred to another physician, preferably one who is a specialist in the field of the applicant's disability.

41-423 MEDICAL EXAMINATION BY COUNTY OR STATE MEDICAL CONSULTANT

41-423

ATD A county or state Medical Consultant may examine an applicant for or recipient of aid. If the person is  
MN examined by a State Medical Consultant, such a consultant shall not serve on the ATD Review Team making the determination of disability.

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CONTINUATION SHEET  
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WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

41-325 RESPONSIBILITIES OF THE COUNTY MEDICAL CONSULTANT IN ATD  
DISABILITY DETERMINATION

41-325

ATD  
MN

The county medical consultant shall be available to assist staff in the following areas:

- a. Reviewing medical reports on a sample basis and upon request assisting the eligibility worker in securing additional medical information, when indicated, before the report is forwarded to the State Review Section. (See Section 42-221.)
- b. Reviewing medical reports on a sample basis prior to payment and contacting physicians whose reports are consistently inadequate or are not returned within a reasonable period of time.
- c. Interpreting medical reports and their implications for service referral.
- d. Determining whether an applicant meets the disability requirement for apparent eligibility as provided in Section 40-129.
- e. Helping the eligibility worker determine whether referral for a current medical examination is indicated and the type of examination required (general practitioner, specialist, etc.).
- f. Helping the eligibility worker determine where to refer the applicant for such an examination.
- g. Selecting an appropriate medical examiner if additional medical information is to be obtained as indicated by the ATD Review Team.
- h. Instructing staff as to symptoms of various disabling conditions which are important to be considered in evaluating disability.
- i. Maintaining relationships with the medical profession which will facilitate arranging medical examinations and treatment for ATD recipients as required.

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**CONTINUATION SHEET  
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(Pursuant to Government Code Section 11380.1)

41-327

REVIEW AND ACTION ON MEDICAL AND SOCIAL INFORMATION REPORTS  
BY THE ATD REVIEW TEAM

41-327

ATD  
MN

.1 Approvals or Disapprovals

The ATD Review Team shall review the reports in each case and unless deferred shall classify the case as approved, or disapproved. Approved cases will be further classified as Group I (no further disability evaluation required) or Group II (disability reevaluation required).

After review by the ATD Review Team, Form DM-3, Certificate of Disability, shall be completed by the ATD Review Team. Two copies of the form shall be forwarded to the county. The county shall take appropriate action in accordance with the certification of the ATD Review Team. (See Section 44-317.8.)

.11 Group I. This group includes persons with permanent, total and definitely irreversible impairments. The disability factor will not ordinarily be considered subject to change but should a question arise, referral should be made to the ATD Review Team for a redetermination of disability. (See Section 42-229.)

.12 Group II. This group includes persons who are permanently and totally disabled at the time of initial eligibility determination. However, the condition may be arrested or a remission may occur or this condition is one for which therapeutic advances are being made. In these cases, the ATD Review Team will indicate on Form DM-3 the additional medical and social data to be secured for redetermination of disability status and the date of the next review.

.2 Deferrals

Where reports are inadequate or the information is insufficient, decisions may be deferred until sufficient information is submitted by the county.

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**CONTINUATION SHEET  
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(Pursuant to Government Code Section 11380.1)

41-329 **REDETERMINATION OF PERMANENT AND TOTAL DISABILITY**

41-329

ATD  
MN

.1 Continuing Cases

.11 Group I (See Section 42-219)

When continued disability is questioned after the original determination, the county shall ask the ATD Review Section for a redetermination of disability. A new DM 1 and DM 201B with a statement giving the reason why a redetermination is requested shall be submitted. Specialists' reports shall be submitted if requested by the ATD Review Team.

.12 Group II (See Section 42-219)

A periodic medical reexamination is required for recipients who have been classified as Group II and a redetermination of disability shall be made by the ATD Review Section. (See Sections 42-217, 42-219 and 42-227.) Whenever the ATD Review Team indicates that services are needed, the recipient shall be referred to the Social Service System. (See Sections 10-302, 10-303 and 10-304)

In addition to the medical report, current social information regarding clients living condition, social functioning and plans for rehabilitation, shall be submitted by the county along with the specific material requested at the time of the previous evaluation. This shall be accompanied by a DM2, ABDM 201C and when the recipient has been seen by a services worker, a summary of the contacts or a copy of the Service Record. (See Section 10-306.)

The data shall be forwarded to the ATD Review Section sufficiently in advance of the due date to enable the ATD Review Team to make its determination and the agency to take appropriate action. (See Section 40-181.11.) The ATD Review Team shall recertify as a Group II case, reclassify to Group I, defer for additional information or disapprove with reasons for the disapproval.

The county shall take appropriate action in accordance with the decision of the ATD Review Team.

.2 Redetermination of Disability Following Denial or Discontinuance - Disability Factor

When a person reapplies for aid after a prior denial or discontinuance because he did not meet the definition of disability, the redetermination of disability shall be the same as in a new application.

.3 Redetermination of Disability Following Denial or Discontinuance - Factors Other Than Disability

.31 When a person who was previously determined to be disabled and placed in Group I, reapplies for aid after a denial or discontinuance because of factors other than disability, no redetermination of disability is required unless there is indication of improvement in the person's physical or mental condition. (See Section 42-227.)

.32 When a person who was previously determined to be disabled and placed in a Group II reapplies for aid after a denial or discontinuance because of factors other than disability, no redetermination of disability is required provided the request for restoration is made prior to the date of reevaluation and there are no indications of improvement in the person's physical or mental condition. (See Section 42-227.)

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(Pursuant to Government Code Section 11380.1)

41-331

**EXPENSES IN CONNECTION WITH MEDICAL, PSYCHIATRIC OR  
PSYCHOLOGICAL EXAMINATIONS**

41-331

**ATD**  
**MN**

There shall be no expense to the applicant, recipient or claimant for any medical, psychiatric or psychological examination required by the SDSW.

Payment for these examinations is an allowable county administrative expense. Payment shall be based upon reasonable and customary fees charged for comparable services in the community but shall not exceed the State Schedules of Maximum Allowances. These schedules govern maximum fees for medical and surgical services, psychology examinations and laboratory tests.

Necessary administrative costs incurred by the county to secure transportation required for physical, psychiatric or psychological examinations may be claimed as administrative expense.

41-333

**FAIR HEARINGS BASED ON DISABILITY**

41-333

**ATD**

A person who is dissatisfied with the disability determination has the right to request a fair hearing. If the claimant has not been examined by a medical specialist (board-certified or board-eligible) in the area of the claimant's major disability within six months of the day the request for fair hearing is filed, the county shall refer the claimant to such specialist immediately upon notification from the SDSW that the request for fair hearing has been filed and shall submit the specialist's report at least fifteen days before the hearing.

This examination will ordinarily be in the area of claimant's primary impairment, but in the event that he has multiple impairments or claims an impairment other than the one which appears to be the primary one, the county medical consultant shall assist the social worker in selecting the appropriate specialist.

The claimant may submit additional medical reports to support his claim at the time of the hearing. Any expense for reports not required by the SDSW is the responsibility of the claimant.

**41-335 ACCEPTABLE EVIDENCE OF DISABILITY**

41-335

**ATD**

Evidence necessary to support a determination of disability shall be a completed copy of a current Form DM-3 signed by the appropriate SDSW reviewer.

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**CONTINUATION SHEET  
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(Pursuant to Government Code Section 11380.1)

**DIVISION 41 LINKING FACTORS OF PUBLIC ASSISTANCE ELIGIBILITY**

**CHAPTER 41-400 DEPRIVATION OF PARENTAL SUPPORT OR CARE**

41-400

**41-400 DEPRIVATION OF PARENTAL SUPPORT OR CARE**

41-400

**AFDC**

Deprivation of parental support or care is a separate and specific eligibility factor for AFDC. A child's deprivation is based on the status of parent or parents, or on his relinquishment for adoption.

**41-401 BASIS OF DEPRIVATION**

41-401

- .1 A child is considered deprived of parental support or care if:
  - a. The child has been relinquished for adoption (see Section 41-410);
  - b. Either parent is deceased (see Section 41-420);
  - c. Either parent is physically or mentally incapacitated (see Section 41-430);
  - d. Either parent is unemployed (see Section 41-440);
  - e. Either parent is continually absent from the home in which the child is living ( see Section 41-450).
- .2 All bases for deprivation shall be considered at time of application and at time of redetermination of eligibility.
- .3 When the child is deprived of parental support or care for more than one reason, eligibility is established on the basis of deprivation that appears first in Section 41-401.1 above except that if federal participation is precluded under the first basis, the basis which permits federal participation shall be used.

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(Pursuant to Government Code Section 11380.1)

41-403 DEFINITION OF A PARENT

41-403

AFDC .1 Definition - Parent

"Parent" means either the father or the mother, natural or adoptive, whether married or unmarried.

If a child is born in wedlock or within ten months after the final divorce decree or annulment, the legal presumption is that he is the child of the marriage. For purpose of AFDC, determination of deprivation under such circumstances is based on the status of the mother and her husband unless the presumption is overcome by a preponderance of competent evidence.

Deprivation of an adopted child is based on the status of the adoptive parents and not on that of the natural parents.

.2 Presence of Stepparent in Home

Deprivation is not affected by the presence in the home of a stepparent, an unmarried father, or a man assuming the role of spouse.

41-405 TERMINATION OF DEPRIVATION

41-405

.1 When a basis for deprivation ceases, and the family remains in need, the county shall determine if any other basis for deprivation exists.

.2 Assistance shall be continued, if the family is in need, for a readjustment period not to exceed three calendar months when:

.21 Deprivation, which is due to relinquishment, incapacity or absence, ceases, or

.22 Deprivation changes to deprivation due to separation or desertion of a parent.

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(Pursuant to Government Code Section 11380.1)

## 41-410 RELINQUISHMENT FOR ADOPTION

41-410

AFDC .1 Relinquishment for Adoption

Deprivation exists when:

- .11 Relinquishment of a child to a county adoption agency has been signed; or
- .12 Relinquishment of a child to a private adoption agency has been signed; and
  - .121 The child was receiving AFDC at the time of relinquishment; or
  - .122 The agency has certified in writing that the child is unplaceable for adoption.

.2 Termination of Deprivation Due to Relinquishment for Adoption

Deprivation because of relinquishment for adoption ends:

- .21 When the child is placed for adoption; or
- .22 When relinquishment is terminated.

## 41-420 PARENT IS DECEASED

41-420

AFDC .1 Deprivation exists if either parent is deceased..2 ~~The applicant must submit a death certificate of the deceased parent.~~

## .2 Acceptable Evidence of Deprivation Due to Death of a Parent

A copy of the death certificate is necessary to support a determination of deprivation.

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(Pursuant to Government Code Section 11380.1)

## 41-430 PHYSICAL OR MENTAL INCAPACITY OF A PARENT

41-430

AFDC

.1 Mother Incapacitated

Deprivation exists if a physical or mental illness or disability prevents the mother from giving her child(ren) normal care.

.2 Father Incapacitated

Deprivation exists if the father's physical or mental illness or disability:

- .21 Prevents him from working full time at a job in which he has customarily engaged; and prevents him from working full time on another job for which he is equipped by education, training or experience, or which he can learn by on-the-job training; or
- .22 Is the reason employers refuse to employ him for work he could do and is willing to do. This includes behavioral disorders which interfere with the securing and maintaining of employment; or
- .23 Prevents him from accomplishing as much on a job as a regular employee and is the reason he is paid on a reduced basis even though he is working full time; or
- .24 Has qualified him and he is receiving ATD; or
- .25 Qualifies him and he is employed in a job which is rehabilitative, therapeutic or in a sheltered workshop not considered to be full-time job.

.3 Determination of Incapacity

The determination that incapacity exists shall be made by the county based upon the following acceptable evidence:

- .31 Physical Incapacity - a completed copy of a current Form CA 341, Medical Examination and Work Capacities Evaluation, or a current Form DM-3, Certificate of Disability.
- .32 Mental Incapacity - one or more of the following:
  - .321 Psychological data, including a psychiatric evaluation or psychometric tests results if indicated.



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(Pursuant to Government Code Section 11380.1)

41-430 PHYSICAL OR MENTAL INCAPACITY OF A PARENT (Continued)

41-430

AFDC

.322 Written social data which indicate a behavioral disorder which is characterized by deviate social behavior which prevents the applicant from securing and holding employment or carrying out normal relationships at home, in the community, or in employment relationships. Examples of behavior includes, but is not limited to the following: alcoholism, drug addiction or criminal activity.

.323 Statements, preferably written, from previous employers who may be identified by the process described in Section 42-307.1. These statements must indicate behavioral or social problems which resulted in the applicant's inability to remain employed, (i.e., either resigning or being terminated).

.4 Deprivation Continued During Rehabilitation Plan

If otherwise eligible, aid is continued for an incapacitated parent until the county's plan of rehabilitation is complete unless:

.41 The plan is no longer feasible or desirable; or

.42 The family becomes ineligible for a reason other than recovery of a parent from incapacity.

.5 Completion of Rehabilitation Plan

The rehabilitation plan is completed when the county's plan for rehabilitation services and/or training plans have been successfully concluded and the recipient secures employment.

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(Pursuant to Government Code Section 11380.1)

41-407 EMPLOYMENT REQUIREMENT

41-407

AFDC

- .1 A parent who is determined to be employable and who is not employed, shall be available for and seeking employment and shall not refuse a bona fide offer of employment unless there is good cause.
- .2 No AFDC recipient, who is either under 17 years of age or the mother of a child who is under seven years of age in the home, shall be required to seek or accept employment.

41-410 RELINQUISHMENT FOR ADOPTION (Continued)

41-410

AFDC

- .3 Acceptable Evidence of Deprivation Due to Relinquishment for Adoption  
A copy of the signed statement from the adoption agency that the child has been relinquished for adoption shall be necessary to support a determination of deprivation.

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(Pursuant to Government Code Section 11380.1)

41-440      UNEMPLOYMENT OF A PARENT OR PARENTS (Continued)

41-440

AFDC

.2 Definition of Deprivation Due to Unemployment of a Parent or Parents

The child shall be considered deprived due to the unemployment of a parent or parents when all of the following conditions are met. The unemployed parent:

- .21 Shall not during 30 consecutive calendar days immediately prior to the beginning date of AFDC, or while in receipt of AFDC, have refused without good cause to apply for or accept an offer of job training, a definite offer of employment meeting any applicable minimum wage requirements, or a community work experience assignment. Determination of good cause for refusal of a job offer, training, or community work experience assignment shall be made by the Department of Human Resources Development or by the Social Services System as provided in Section 30-156.

**CONTINUATION SHEET  
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(Pursuant to Government Code Section 11380.1)

41-440 UNEMPLOYMENT OF A PARENT OR PARENTS (Continued)

41-440

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AFDC

.22 Shall either:

.221 Be currently registered with the Department of Human Resources Development and be available for and seeking employment, or

.222 Be referred to or accepted for or participating as a beneficiary in any of the following:

WIN, ETS, and MDTA projects; Job training programs approved by the Director of the State Department of Social Welfare; WIN equivalent projects established as part of an ongoing manpower development program under provisions of the Economic Opportunity Act and Title 1, Elementary and Secondary Education Act.

.23 Shall, when the other parent living in the home is an employed parent:

.231 Have been in the labor market for full-time employment at least the 30 day period immediately prior to the beginning date of aid, or have a county approved plan for full-time employment, and

.232 Have a satisfactory plan for the care of the children when both parents are out of the home, and

.233 Have, if the unemployed parent is the mother, the ability to work or participate in job training and also care for the family.

.24 Shall either:

.241 have worked not more than 23 hours each calendar week for at least 30 consecutive calendar days immediately prior to the beginning date of AFDC, or

.242 if employed on an intermittent basis and worked more than 23 hours any calendar week during such 30-day period:

a. Demonstrated that the excess number of hours is of a temporary nature as evidenced by the fact that he was under the 100 hour-per-month standard for the two prior calendar months,

and

b. Show some evidence that the number of hours during the next month is expected to be under the 100 hour-per-month standard.

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